

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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U2 HOME ENTERTAINMENT, INC.,

Case No. 07-CV-6013 (DLC) (MHD)

Plaintiff,

**AFFIDAVIT**

- vs. -

WEI PING YUAN a/k/a WEI PING YUEN, HUNG  
MUI YUEN a/k/a HUNG MUI YUAN, YEE MUI  
LEE, SHUEMAN WONG, CHUN HIU LAM, CHI  
TING CHAN, MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC. and THE  
HEMISPHERE NATIONAL BANK n/k/a  
REPUBLIC FEDERAL BANK,

Defendants.

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STATE OF NEW YORK     )  
                                  )ss:  
COUNTY OF KINGS     )

D. MICHAEL ROBERTS, being duly sworn, deposes and says:

1.     I am a member of the Bar of this Court and am associated with the firm of SANDERS, GUTMAN & BRODIE, P.C., attorneys for defendant THE HEMISPHERE NATIONAL BANK n/k/a REPUBLIC FEDERAL BANK in the above-captioned action. I am familiar with all the facts and circumstances in this action.

2.     I make this Affidavit, as required by Local Civil Rule 55.1, in support of the request by defendant THE HEMISPHERE NATIONAL BANK n/k/a REPUBLIC FEDERAL BANK for a certificate of the default by plaintiff U2 HOME ENTERTAINMENT, INC. on the Counterclaim of defendant THE HEMISPHERE NATIONAL BANK n/k/a REPUBLIC FEDERAL BANK, which was contained in the

Answer of defendant THE HEMISPHERE NATIONAL BANK n/k/a REPUBLIC FEDERAL BANK.

3. On November 9, 2007, I served the Answer containing the Counterclaim against plaintiff U2 HOME ENTERTAINMENT, INC. on the law firm of TARTER KRINSKY & DROGIN LLP, the attorneys of record for plaintiff, by sending a copy to their offices via regular First Class mail, pursuant to FRCP 5(b). On the same date, I electronically filed the Answer containing the Counterclaim with the Court, along with a Certificate of Service.


4. Paragraph 4 of plaintiff's Complaint states that plaintiff is a California corporation having its principal place of business in San Francisco, California. As plaintiff is a corporation, and not a natural person, it is not an infant, in the military, or an incompetent person.

5. As set forth in Paragraph Twenty-Second of the Answer of defendant THE HEMISPHERE NATIONAL BANK n/k/a REPUBLIC FEDERAL BANK, said defendant's Counterclaim is within the supplemental jurisdiction of this Court under 28 U.S.C. § 1367(a) because it is a compulsory counterclaim arising from the same transaction or occurrence as the claims alleged in the Complaint of plaintiff.

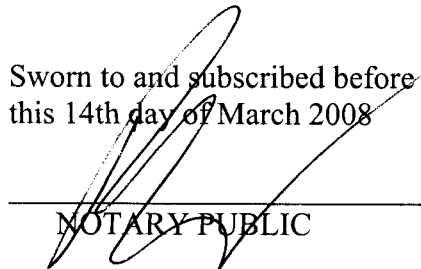
6. Plaintiff U2 HOME ENTERTAINMENT, INC. has failed to answer the Counterclaim of defendant THE HEMISPHERE NATIONAL BANK n/k/a REPUBLIC FEDERAL BANK, and the time to do so has expired.

7. The Clerk of this Court should therefore enter the default of plaintiff with respect to the Counterclaim of defendant THE HEMISPHERE NATIONAL BANK n/k/a REPUBLIC FEDERAL BANK, pursuant to FRCP 55(a).

WHEREFORE defendant THE HEMISPHERE NATIONAL BANK n/k/a  
REPUBLIC FEDERAL BANK respectfully request entry of the default by plaintiff U2  
HOME ENTERTAINMENT, INC. with respect to the Counterclaim contained in the  
Answer of defendant THE HEMISPHERE NATIONAL BANK n/k/a REPUBLIC  
FEDERAL BANK.

  
D. MICHAEL ROBERTS (DR-5243)

Sworn to and subscribed before me  
this 14th day of March 2008

  
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NOTARY PUBLIC

JORDAN BRODIE  
Notary Public, State Of New York  
No. 02BR4950142  
Qualified In Kings County  
Commission Expires 4/24/2011  
2011